

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDRE COLEMAN, RALEEM-X, RON
DENHAM, LEON PERCIVAL, and
JEFFERY CARNEY,

Plaintiffs

v.

JENNIFER GRANHOLM, PATRICIA
CARUSO, SANDRA SCHULTZ
MENGEL, KIMBERLY S. HAUSER,
HANNAH WATSON, JUDGE RICHARD
BANDSTRA, JUDGE HOWARD C.
WHITBECK, MIKE BRYANTON, DAVID
BERGH, BARBARA BOUCHARD, D.
BOBO, WILLIE SMITH, ANGELA
DISSESSA, DAVID EASTERDAY,
DAMIAN S. FISHER, JUDGE PETER D.
HOUK, JUDGE WILLIAM E. COLLETTE,
INGHAM COUNTY, and BAY COUNTY,

Case No. 06-12485

Honorable Patrick J. Duggan

Defendants.

**OPINION AND ORDER DENYING MOTIONS TO CONSIDER
SUPPLEMENTAL AFFIDAVIT IN SUPPORT OF OBJECTION
TO REPORT AND RECOMMENDATION**

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on May 6, 2008.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

This is a *pro se* civil rights action filed pursuant to 42 U.S.C. §§ 1983 and 1985. Plaintiffs are five state prisoners currently incarcerated in the Alger Maximum Correctional Facility in Munising, Michigan, the Baraga Maximum Correctional Facility in Baraga, Michigan, the Ionia Maximum Correctional Facility in Ionia, Michigan, and the Marquette Branch Prison in Marquette, Michigan. In their complaint, Plaintiffs allege that the MDOC Defendants¹ violated their constitutional rights by denying access to appliances (specifically radios previously permitted in segregation), subjecting Plaintiffs to inhumane conditions in segregation units, providing uncomfortable shoes, providing inadequate toothpaste, using bright lights in cells up to and exceeding 18 hours a day, limiting the time frame for appealing charges of major misconduct, and denying access to the courts. (*See* Doc. No. 23, First Am. Compl.) Presently before this Court are: (1) Plaintiff Leon Percival's Motion to Consider Supplemental Affidavit in Support of Objection to Report and Recommendation; and (2) Plaintiff Andre Coleman's Motion to Consider Supplemental Affidavit in Support of Objection to Report and Recommendation.

On March 5, 2008, Magistrate Judge Steven D. Pepe issued a Report and Recommendation ("R&R") recommending that the MDOC Defendants' motions for summary judgment be granted. Reviewing the record *de novo*, this Court issued an Opinion and Order granting the MDOC Defendants' motions for summary judgment and dismissing the MDOC Defendants on April 2, 2008. Plaintiff Percival's and Coleman's

¹The MDOC Defendants included former Defendants Patricia Caruso, David Bergh, Barbara Bouchard, Willie O. Smith, and Ron Bobo.

motions therefore appear to be moot and can be denied on this basis. In the alternative, having reviewed the affidavits Plaintiff Percival and Coleman attached to their motions, and to the extent that Plaintiffs' motions can be construed as being motions for reconsideration, the Court does not believe that the affidavits Plaintiff Percival and Coleman attached to their motions show that the Court was misled by a palpable defect when it granted the MDOC Defendants' motion for summary judgment. *See* E.D. Mich. LR 7.1(g).

Accordingly,

IT IS ORDERED that Plaintiffs Percival's and Coleman's Motions to Consider Supplemental Affidavit in Support of Objection to Report and Recommendation are **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
Andre Coleman
#173324
Alger Maximum Correctional Facility
P.O. Box 600
Munising, MI 49862

Leon Percival
#220239
Alger Maximum Correctional Facility
P.O. Box 600
Munising, MI 49862

Julia R. Bell, A.A.G.
John R. McGlinchey, Esq.
Timothy M. Perrone, Esq.
Mark Schoen, A.A.G.

Magistrate Judge Steven D. Pepe